

STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
KAKAAKO
Honolulu, Hawaii, 96813

April 4, 2018

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Board Members:

SUBJECT: Shall the Authority authorize the Interim Executive Director to execute a lease with U.S. Customs and Border Protection for a portion of the "Forrest private driveway," TMK No. (1) 2-1-015-052 (por.)?

SUMMARY:

In the interest of national security, U.S. Customs and Border Protection (CBP) requests the free use of a portion of Hawaii Community Development Authority's (HCDA) Forrest private driveway to operate a radiation portal monitor. The maximum lease term would be for a period of ten years.

AUTHORITIES:

The board must approve all lease requests for periods greater than one year in length.

BACKGROUND:

CBP has operated out of Pier 1 in Kakaako Makai since the events of September 11, 2001. This area is a critical gateway for national security, as CBP screens all incoming cargo shipments for hazardous materials. Some of the necessary components to the screening process are Radiation Portal Monitors (RPMs) and modular facilities (CBP Booths). CBP personnel staff this location around the clock and use such equipment and facilities to ensure only safe cargo is allowed onto U.S. grounds.

After the HCDA assumed ownership of a portion of Pier 1 (the Forrest private driveway) in 2005, HCDA signed a 10-year lease with CBP for the operation of RPMs and CBP Booths at no charge. Under this lease, CBP operated a small portable CBP Booth on a portion of the Forrest private driveway. The booth is currently 8' x 14' and is fenced off from the public. It does not block ingress or egress to Lot C or other parcels in the area.

Now, CBP is looking to renew their lease and upgrade the booth and associated facilities. The existing booth would be replaced by a slightly larger booth measuring 8' x 18'. CBP may also relocate the booth sixty feet in the mauka direction in order to increase safety for its personnel.

ANALYSIS:

CBP requests the space continued to be leased at no cost, as the facility would be used for national security purposes. CBP agrees to be responsible for all maintenance and improvement costs and the HCDA would not incur any charges related to this lease.

The proposed lease agreement includes a one-year initial term, followed by four additional one-year options to extend. Thereafter, CBP and HCDA would have the opportunity to negotiate an additional five-year extension, provided the lease remains at no cost. The lease also includes a 30-day termination clause which may be exercised by either party.

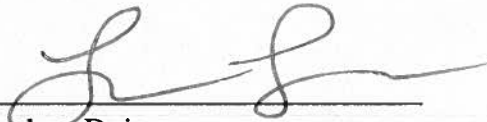
Given the location and small footprint of the requested area, there are little to no other opportunities to generate revenue from this parcel. CBP is aware that the area will eventually be developed as part of the Lot C development and CBP plans to relocate their entire Pier 1 facility, when that time comes. CBP is currently only interested in a short-term agreement that will enable them to continue scanning cargo from this location for the next five to ten years.

RECOMMENDATION

HCDA staff recommends that the Board:

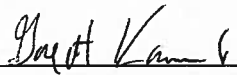
Authorize the Interim Executive Director to execute a lease with U.S. Customs and Border Protection for a portion of the "Forrest private driveway," TMK No. (1) 2-1-015-052 (por.).

Respectfully submitted,



Lindsey Doi
Asset Manager

APPROVED FOR SUBMITTAL:



Garrett Kamemoto, Interim Executive Director
Hawaii Community Development Authority

Attachments:

Exhibit A - CBP Pier 1 Lease

U.S. GOVERNMENT LEASE FOR REAL PROPERTY
(Short Form)

I. LEASE NUMBER

INTRODUCTION

The undersigned parties in Part C of this lease agreement have conferred and agree that they have a mutual interest in the U.S. Customs and Border Protection (CBP, hereinafter "Government") operating Radiation Portal Monitors ("RPMs"), a modular facility (CBP booth) and related equipment on Fort Armstrong, Honolulu, Hawaii which is owned by the State of Hawaii, Hawaii Community Development Authority (HCDA, hereinafter "Lessor") and operated in part (Pier 1) by the State of Hawaii, Department of Transportation (DOT). In consideration of the Government's investment and the use of Government personnel to operate the RPMs, Lessor agrees to lease the space set out in Section A to the Government at no cost.

PART I • SOLICITATION/DESCRIPTION OF REQUIREMENTS *(To be completed by Government)*

A. REQUIREMENTS

The Government is seeking to lease the following areas specified in Exhibit C-1 for occupancy not later than April 1, 2018 for one (1) year. The Primary RPMs are located in an area of Fort Armstrong (Pier 1) owned by HCDA and operated by DOT. The "CSP Booth and Parking" are located in an area of Fort Armstrong adjacent to Pier 1 on property owned by HCDA and not controlled by DOT.

B. STANDARD CONDITIONS AND REQUIREMENTS

1. The Government shall install a metering device and pay for all electricity consumed by the Radiation Portal Monitors ("RPMs"), a modular facility (CSP booth) and related equipment. The Government shall bear all costs associated with telecommunication services (i.e., phone, fax, Internet) at the CBP booth.
2. The Government shall have access to the leased space at all times.
3. None of the below services will be provided by the Lessor or DOT. Instead, the Government shall utilize the services (e.g., toilet, water, trash removal) currently available to CBP personnel at the CBP facility on Pier 1.

SERVICES AND UTILITIES *(To be provided by Lessor as part of rent)*

- | | | | | |
|---|---|---|--|--------------------------------|
| <input type="checkbox"/> HEAT | <input type="checkbox"/> TRASH REMOVAL | <input type="checkbox"/> ELEVATOR SERVICE | <input type="checkbox"/> INITIAL & REPLACEMENT | <input type="checkbox"/> OTHER |
| <input type="checkbox"/> ELECTRICITY | <input type="checkbox"/> CHILLED DRINKING WATER | <input type="checkbox"/> WINDOW WASHING | LAMPS, TUBES & BALLASTS | (Specify below) |
| <input type="checkbox"/> POWER (Special Equip.) | <input type="checkbox"/> AIR CONDITIONING | Frequency _____ | <input type="checkbox"/> PAINTING FREQUENCY | |
| <input type="checkbox"/> WATER (Hot & Cold) | <input type="checkbox"/> TOILET SUPPLIES | <input type="checkbox"/> CARPET CLEANING | Space _____ | |
| <input type="checkbox"/> SNOW REMOVAL | <input type="checkbox"/> JANITORIAL SERV. & SUPP. | Frequency _____ | Public Areas _____ | |

4. OTHER CONDITIONS AND REQUIREMENTS

This lease agreement consists of the following documents: (a) this modified GSA Form 3626, (b) Attachment A (Additional Clauses), (c) Attachment B (Applicable GSA General Clauses), (d) Attachment C (Description of Leased Space), and (e) the following changes and/or additions:

NOTE: All offers are subject to the terms and conditions outlined above, and elsewhere in this solicitation, including the Government's General Clauses and Representations and Certifications.

PART II - OFFER (To be completed by Offeror/Owner)

A. LOCATION AND DESCRIPTION OF PREMISES OFFERED FOR LEASE BY GOVERNMENT

5. NAME AND ADDRESS OF BUILDING (Include ZIP Code) Pier 1 Fort Armstrong Ala Moana Blvd. Honolulu, HI 96850	6. LOCATION(S) IN BUILDING	
	a. FLOOR(S)	b. ROOM NUMBER(S)
	c. RENTABLE SQ. FT.	d. TYPE <input type="checkbox"/> GENERAL OFFICE <input checked="" type="checkbox"/> OTHER (Specify) <input type="checkbox"/> WAREHOUSE <u>Land</u>

B. TERM

To have and to hold, for the term commencing on the day following the approval of this lease agreement by all parties and continuing for a period of one (1) year. Upon expiration of the initial one (1) year term, this lease may be extended upon mutual written agreement for four (4) additional terms of one (1) year each under the same terms and conditions of this lease. If the Government exercises all options available under this lease, the Lessor agrees to negotiate additional five (5) year extensions in good faith and at no cost to the Government. The Government and HCDA may terminate this lease at any time upon at least thirty (30) day written notice. Said notice shall be computed commencing with the day after the date of mailing.

C. PARTIES AND OBLIGATING SIGNATURES

The undersigned parties hereby subscribe their names to this lease agreement and agree to be bound by its terms.

7. NAME AND ADDRESS OF OWNER

Hawaii Community Development Authority, 547 Queen Street, Honolulu, Hawaii 96813

8. TELEPHONE NUMBER OF OWNER (808) 587-2870	9. TYPE OF INTEREST IN PROPERTY OF PERSON SIGNING <input checked="" type="checkbox"/> OWNER <input type="checkbox"/> AUTHORIZED AGENT <input type="checkbox"/> OTHER (Specify)
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10. NAME LESSOR OR AUTHORIZED AGENT	11. TITLE OF PERSON SIGNING
12. SIGNATURE LESSOR OR AUTHORIZED AGENT	13. DATE

THIS DOCUMENT IS NOT BINDING ON THE GOVERNMENT OF THE UNITED STATES OF AMERICA UNLESS SIGNED BELOW BY AUTHORIZED CONTRACTING OFFICER.

14. NAME CONTRACTING OFFICER (Type or Print)	15. SIGNATURE CONTRACTING OFFICER	16. DATE
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D. CONCURRENCE BY PIER 1 OPERATOR

17. CONCURRENCE BY OPERATOR

As the Operator of Pier 1 (Fort Armstrong), the State of Hawaii, Department of Transportation, Concurs with this Lease.

18. NAME OF OPERATOR OR AUTHORIZED AGENT	19. TITLE OF PERSON SIGNING FOR OPERATOR
20. SIGNATURE OF OPERATOR OR AUTHORIZED AGENT	21. DATE

Attachment A

Additional Clauses

1. The Government shall not make any structural alterations, additions or improvements of or to the leased property without coordination with the Lessor and DOT. Any and all alterations, additions or improvements deemed to be necessary and desirable by the Government in connection with the use of the leasehold property shall, unless otherwise agreed, be at the sole cost and expense of the Government. Issues relating to alterations, additions or improvements to the leased property not specifically dealt with in this agreement will be addressed via separate Supplemental Lease Agreement (SLA).
2. The Lessor agrees that the RPMs, modular facility (CBP booth), and related equipment, shall remain the exclusive property of the Government during and at the expiration of this lease (or any subsequent extensions) and shall be removed by the Government upon reasonable request by the Lessor. (See, Paragraph 4.) The Government will not be responsible for removing any utilities, roads or other similar permanent improvements made to the leased property on Pier 1 (including the perimeter fence) for the RPMs. However, the Government shall remove any utilities, roads or other similar permanent improvements made to the leased property beyond the Pier 1 perimeter fence for the RPMs.
3. In the event a maritime repair or development project interferes with the Government's use of the leased property for its intended purpose, the Lessor and DOT agrees to lease equivalent space on Pier 1 to the Government under the same terms as this agreement.
4. Upon reasonable request and notice of ninety (90) days, the Government agrees to undertake the relocation of the primary RPMs and related equipment at its sole cost and expense. For example, it would be reasonable to request relocation of the Government's leased space and improvements if the configuration of the terminals at the leased property is substantively changed. In the event that Lessor and/or DOT unreasonably require the Government to relocate the RPMs and related facilities and equipment, Lessor and/or DOT agree to pay for the costs associated with the relocation.
5. Upon reasonable request and notice of ninety (90) days, the Government agrees to relocate the CBP booth and parking within one hundred and eighty (180) days thereafter at its sole cost and expense. For example, it would be reasonable to request relocation of the Government's leased space and improvements if the leased property is being redeveloped. In the event that Lessor unreasonably requires the Government to relocate the CBP booth and parking, Lessor agrees to pay for the costs associated with the relocation.
6. In the event the Lessor and/or DOT should transfer any interest in the leased property that would impact upon this lease the Lessor agrees to: a) ensure that this lease becomes a part of any transfer agreement and remains in effect, and b) provide notice to the Government of the proposed agreement and at least fifteen (15) calendar days to provide comment before said agreement is signed by the Lessor and/or DOT.
7. No term in this lease shall be interpreted as increasing or reducing the Lessor's and/or DOT's current and future legal obligations to provide security at Pier 1, e.g. Federal Maritime Transportation Security Act of 2002.
8. The Government assumes liability for claims of personal and property damage arising out of the acts, omissions, or negligence of its agents and employees acting within the scope of their employment in the use and maintenance of the leased property. This assumption of liability is coextensive with and in accordance with the liability of the federal government under the Federal Tort Claims Act (28 U.S.C. §§ 2671-2680). Nothing in this lease constitutes or can be construed as a waiver of sovereign immunity.

INITIALS: _____ & _____
 LESSOR/DOT GOVERNMENT

Additional Clauses (Continued)

9. Lessor and DOT agrees that in accordance with 31 U.S.C. § 1341 and 41 U.S.C. § 11 and other applicable federal laws, liabilities an obligation under this lease are contingent upon the availability of appropriated funds from which payment can be lawfully made. Nothing in the lease may be construed as implying that Congress will, at a later date, appropriate funds sufficient to meet any deficiencies.
10. The Government, Lessor and DOT agree that this lease agreement is not intended and should not be construed to create any right or benefit, substantive or procedural, enforceable at law by any individual or any other non-party against the Lessor, the State of Hawaii, the United States, or any of any other non-party against the Lessor, the State of Hawaii, the United States, or any of their agencies, officers, or employees.
11. The parties agree that all terms and conditions with respect to this lease are expressly contained herein.

INITIALS: _____ & _____
LESSOR/DOT GOVERNMENT

Attachment B
APPLICABLE GENERAL CLAUSES
(Simplified Leases)

(Acquisition of Leasehold Interests in Real Property for Leases Up to \$100,000 Net Annual Rent)

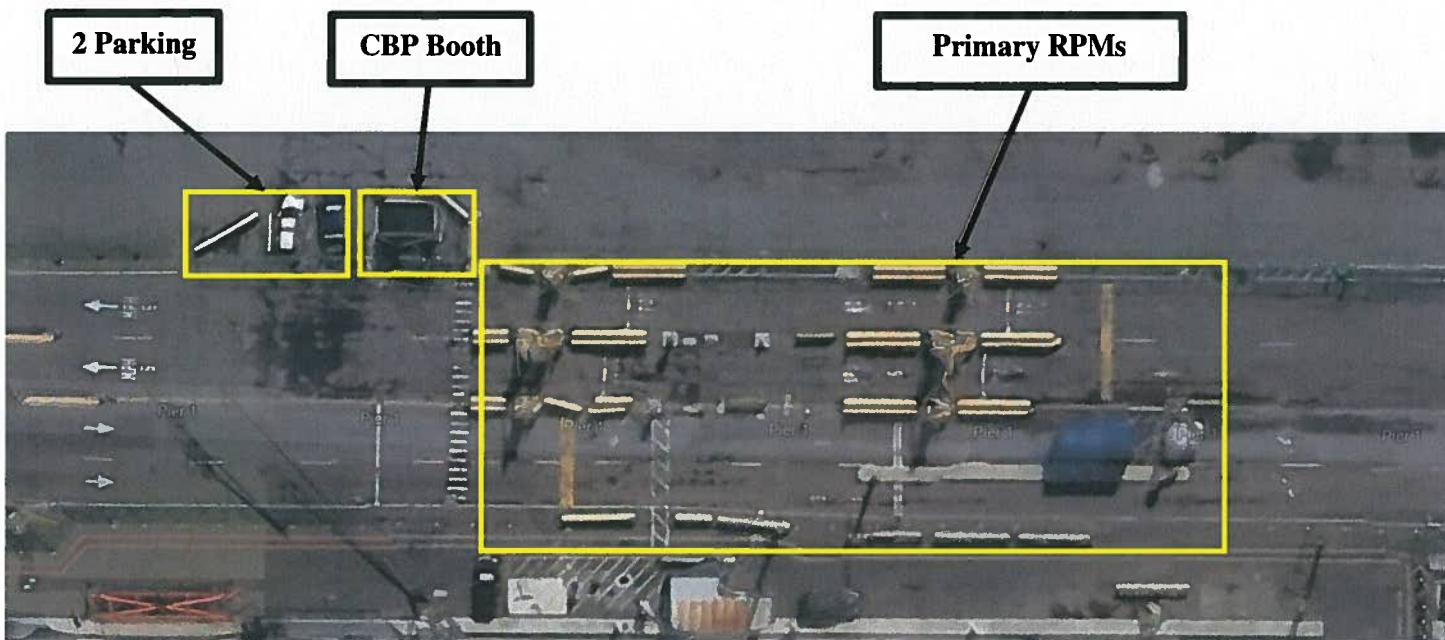
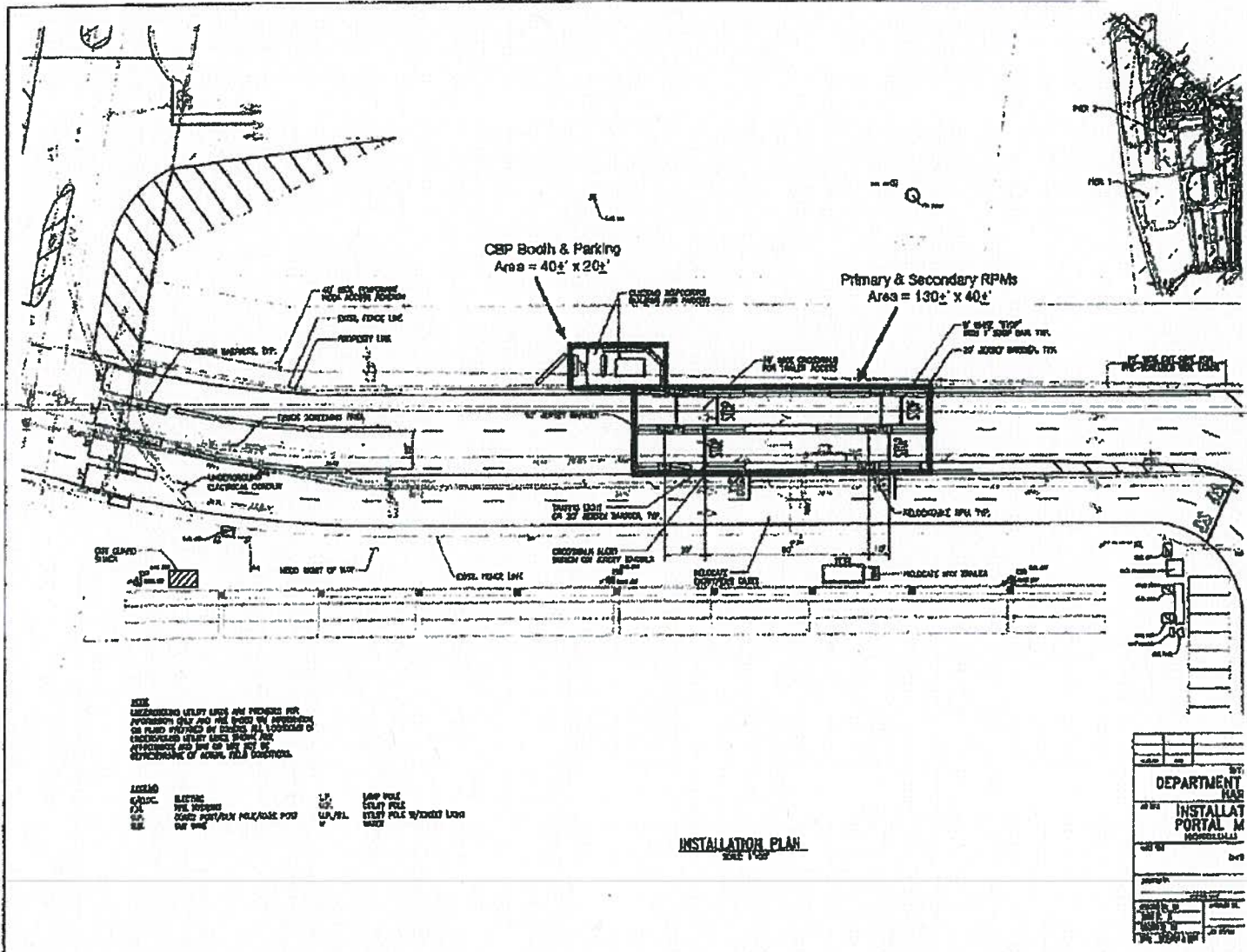
1. The Government reserves the right, at any time after the lease is signed and during the term of the lease, to inspect the leased property and all other areas of the Lessor's and DOT's property to which access is necessary to ensure a safe and healthy work environment for the Government tenants and the Lessor's and DOT's performance under this lease.
2. The Lessor and DOT shall maintain the demised property, including the roads, sidewalks, fixtures, and appurtenances furnished by the Lessor and/or DOT under this lease, in good repair and tenantable condition.
3. In the event the Lessor or DOT fails to perform any service, to provide any item, or meet any requirement of this lease, the Government may perform the service, provide the item, or meet the requirement, either directly or through a contract The Lessor and DOT agrees to reimburse the Government for any such expenses.
4. 52_252-2 - CLAUSES INCORPORATED BY REFERENCE (VARIATION) (SEP 2001)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text Upon request, the Contracting Officer will make the full text available or the full text may be found on the Internet as GSA Form 3517A (General Clauses Short Form) at <http://www.gsa.gov/Portal/gsa/epformslibrary.do?viewType=DETAIL&formid=8468F70BDEC248F685256C0F00433E78>

5. The following clauses are incorporated by reference:

 FAR 52-233-1 DISPUTES (DEC 1998)

INITIALS: _____ & _____
 LESSOR/DOT GOVERNMENT



INITIALS: _____ & _____
 LESSOR/DOT GOVERNMENT